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Sunset Review
A-588-068
Public Document

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of
the Antidumping Duty Finding on Prestressed Concrete Steel Wire
Strand from Japan; Final Results

Summary:

We have analyzed the substantive response of the interested parties participating in the second sunset review of the antidumping duty finding on prestressed concrete steel wire strand (“PC Wire Strand”) from Japan. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this sunset review for which we received comments by the domestic interested parties:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail

Margins from the investigation

History of the Finding

On August 28, 1978, the U.S. Treasury Department (“Treasury”), published in the *Federal Register* the final affirmative determination of sales at less than fair value and final discontinuance of antidumping investigation. *See Determination of Sales at Less Than Fair Value and Final Discontinuance of Antidumping Investigation*, 43 FR 38495 (August 28, 1978)(“*Treasury Original Finding*”). In the determination, Treasury found weighted average margins of dumping for five companies, Shinko – 13.3 percent, Sumitomo – 15.8 percent, Suzuki – 6.9 percent, Kawatetsu – .06 percent, and Tokyo Rope Manufacturing Company, Ltd. – 4.5 percent. *Id.* at 43 FR 38498. Treasury determined also that PC Wire Strand from Japan, except that produced by Kawatetsu Wire Products Company, Ltd, was being sold at less than fair value. Treasury discontinued its investigation with respect to Kawatetsu because of its *de minimis* margin. Treasury did not publish an “all others” rate. However, the International Trade Commission (the “Commission”) identified the weighted-average dumping margin for all the sales compared at 9.5 percent. *See Inv. No. AA1921-188, USITC Pub. at 4* (November 1978) or *Steel Wire Strand for Prestressed Concrete from Japan*, 43 FR 55826 (November 29, 1978)(“*Commission Original Finding*”).

On November 24, 1978, the Commission notified Treasury, that an industry in the United States was being injured by reason of the imports of PC Wire Strand from Japan. On November 29, 1978, the Commission published in the *Federal Register* its findings of injury to a U.S. industry. *See Commission Original Finding*, 43 FR 55826. On December 8, 1978, the final antidumping finding was published in the *Federal Register*. *See Treasury Decision 78-487*, 43 FR 57599 (December 8, 1978)(“*Final Original Finding*”).

Since the antidumping finding by Treasury, the Department has conducted several administrative reviews.¹ On August 29, 1986, the Department revoked the finding with respect to imports produced by Sumitomo Electric Industries, Ltd. and exported by the Sumitomo Corporation. *See Steel Wire Strand for Prestressed Concrete From Japan; Final Results of Antidumping Duty, Administrative Review and Revocation in Part*, 51 FR 30894 (August 29, 1986). On July 13, 1990, the Department issued the final results of a changed circumstances review, determining that Kawasaki Steel Techno-Wire was the successor to Kawatetsu Wire Products Company, Ltd. and, therefore, that the discontinuance issued to Kawatetsu Wire Products Company, Ltd. applied to Kawasaki Steel Techno-Wire. *See Steel Wire Strand for Prestressed Concrete From Japan; Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 55 FR 28796 (July 13, 1990). The finding remains in effect for all other manufacturers and exporters of the subject merchandise.

On January 6, 1999, the Department published notice of the final results of the first sunset review, in which it determined that revocation of the antidumping duty finding on PC Wire Strand

¹ See *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 48 FR 45586 (October 6, 1983); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review and Revocation in Part*; 51 FR 30894 (August 29, 1986); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 52 FR 4373 (February 11, 1987); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 52 FR 37997 (October 13, 1987); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 53 FR 9787 (March 25, 1988); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 53 FR 11162 (April 5, 1988); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 55 FR 28796 (July 13, 1990); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 55 FR 46853 (November 7, 1990); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 56 FR 66840 (December 26, 1991); and *Steel Wire Strand for Prestressed Concrete from Japan; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review*; 62 FR 60688 (November 12, 1997).

from Japan would be likely to lead to continuation or recurrence of dumping. *See Final Results of Expedited Sunset Review: Steel Wire Strand from Japan*, 64 FR 857 (January 6, 1999)(“*Department First Sunset Review*”). In its sunset review, the Commission determined that revocation of the antidumping duty finding on PC Wire Strand from Japan would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. *See Steel Wire Strand For Prestressed Concrete from Japan, Determination of Injury*, 43 FR 55826 (November 29, 1978)(“*Commission First Sunset Review*”). Based on these findings, the Department published notice of continuation of the antidumping duty finding on PC Wire Strand from Japan. *See Continuation of Antidumping Finding: Prestressed Concrete Steel Wire Strand From Japan*, 64 FR 40554 (July 27, 1999)(“*Final Results & First Sunset Review*”).

Given that the Department has conducted no additional administrative reviews since the completion of the first sunset review in 1999, the first sunset review antidumping finding remains in effect for all manufacturers, producers, and exporters of PC Wire Strand from Japan, except for KSTW, and Sumitomo Electric Industries, Ltd., exported by the Sumitomo Corporation.

Background

On January 2, 2004, the Department initiated a second sunset review of the antidumping finding on PC Wire Strand from Japan, pursuant to section 751(c) of the Tariff Act of 1930, as amended, (the “Act”). *See Initiation of Five-Year ("Sunset") Reviews*, 69 FR 50 (January 2, 2004). On January 16, 2004, the Department received a Notice of Intent to Participate on behalf of American Spring Wire Corporation., Insteel Wire Products Company, and Sumiden Wire Products Corporation (collectively, “the domestic interested parties”) within the deadline specified in section 315.218(d)(1)(i) of the

Department's regulations ("Sunset regulations"). The domestic interested parties claim interested party status under section 771(9)(C) of the Act, as U.S. producers of PC Wire Strand in the United States. In their response, the domestic interested parties indicated their willingness to participate in this sunset review. American Spring Wire Corporation notes that it has been involved in this proceeding since its inception. Insteel Wire Products claims to have ownership of the production facility of Florida Wire & Cable, Inc. Florida Wire & Cable is one of the original petitioners that also participated in the first sunset review. Insteel Wire Products and Sumidun Wire Products indicate that they were not producers of PC wire strand at the time of the petition.

On February 2, 2004, the Department received a complete substantive response from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C) of the Department's regulations, the Department conducted an expedited, 120-day review of this finding.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the antidumping duty finding would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making these determinations, the Department shall consider the weighted-average dumping margins determined in the investigations and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty finding. In addition, section 752(c)(3) of the Act

provides that the Department shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the orders were revoked. Below we address the comments of the interested parties.

1. Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

The domestic interested parties asserted that if the antidumping finding was revoked, it is likely that dumping would continue because the evidence demonstrates that Japanese producers and exporters need to dump to sell in any significant quantities in the United States. *See Substantive Response of the Domestic Interested Party*, February 2, 2004, at 13.

First, the domestic interested parties noted that respondents reduced their sales to the United States dramatically from 1978 through 2003. *Id.* at Exhibit 1. The level of import for the years before to the imposition of the finding was substantial: 83,375 tons in 1975; 69,548 tons in 1976; 75,844 tons in 1977; and 78,863 tons in 1978. By the early 1980s, imports of PC Wire Strand from Japan declined about 50,000 tons from its pre-order levels. *Id.* at 14. In 1989, imports eventually plummeted to 1,400 tons. The domestic interested parties contended that a comparison of the pre-order import volume levels to the current import volume demonstrates that Japanese producers are not able to sell PC Wire Strand in commercial volumes in the United States. *Id.* at 14. This type of scenario supports a finding of likelihood that dumping will continue or recur if the finding is revoked. *Id.* The domestic interested parties reference to the Statement of Administrative Act (“SAA”) that states “[i]f imports cease after the order is issued, it is reasonable to assume that the exporter could not sell in the United States without dumping, and to reenter the U.S. market, they would have to resume

dumping.” *Id.*

Second, the weighted-average dumping margins calculated by the Treasury in the investigation were significant. *Id.* at 16. The domestic interested parties pointed to the SAA that states, “existence of dumping margins after the order, or the cessation of imports after the order, is highly probative of the likelihood of continuation or recurrence of dumping.” *Id.* The domestic interested parties further noted that although the finding was revoked for Sumitomo Electric Industries, Ltd. and KSTW, the final results of numerous administrative reviews demonstrate that dumping continues by at least one known exporter, Tokyo Rope Manufacturing, at a rate above a *de minimis* level, 4.5 percent. *Id.* at 16.

Finally, the domestic interested parties asserted that the weighted-average dumping margins and their associated import volumes supports that dumping is likely to continue or recur if the antidumping finding is revoked. *Id.* at 19.

Department’s Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the SAA, H.R. Doc. No. 103-316, vol. 1 (1994) at 826, the House Report, H. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. *See Policies Regarding the Conduct of the Five-Year (“Sunset”) Reviews of Antidumping & Countervailing Duty Orders*, Policy Bulletin, No. 98.3 (April 16, 1998) (“*Sunset Policy Bulletin*”). The Department clarified that determinations of likelihood will be made on an order-wide basis. *See Sunset Policy Bulletin* at

section II.A.2. In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. *See Sunset Policy Bulletin* at section II.A.3.

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order or a finding would be likely to lead to continuation or recurrence of dumping where a respondent interested party does not participate in the sunset review. In this sunset review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the Department's regulations, this constitutes a waiver of participation.

Furthermore, the Department considered the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty finding.

Pursuant to section 752(c)(1)(A) of the Act, the Department considered the weighted-average dumping margins determined in the investigation and in subsequent reviews. As a result of the original investigation, the Treasury found that Japanese producers/exporters of PC Wire Strand dumped subject merchandise in the United States. *See Treasury Original Finding*, 43 FR at 38,498. The Department has conducted a number of reviews since issuance of the finding. In those reviews, the Department found that dumping has continued. *See infra* n. 1 (referencing all the Departments reviews

to date). Furthermore, the Department made an affirmative likelihood determination in its first sunset review of this finding. *See Department First Sunset Review*, 64 FR at 858-59. No party has challenged that determination. The finding, therefore, continues to exist and we continue to collect and assess dumping duties on entries of subject merchandise.

Accordingly, as discussed in section II.A.3 of the *Sunset Policy Bulletin* and the SAA at 890, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. A dumping margin above *de minimis* continues to exist for shipments of the subject merchandise from the Tokyo Wire Rope Manufacturing Company, Ltd., as well as “all others”. *See Steel Wire Strand for Prestresses Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 52 FR 4373 (February 11, 1987), as corrected by *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review; Correction*; 52 FR 37997 (October 13, 1987).

Consistent with section 752(c)(1)(B) of the Act, the Department also considered the volume of imports before and after issuance of the finding. The import statistics provided by the domestic interested parties on imports of the subject merchandise between 1975 and 2003, and confirmed through the Department’s examination of import volumes, demonstrate that imports of the subject merchandise fell significantly after the imposition of the finding. For example, in the two years following the imposition of the finding, imports of the subject merchandise fell by approximately 50,000 short tons (from approximately 80,000 in 1978 to approximately 30,000 short tons in 1980). Since that period, imports of subject merchandise have decreased every year, with few exceptions. The statistics demonstrate that imports of PC Wire Strand from Japan have not been above 1,000 short tons per

year since 1990. This is consistent with the Department's findings of no shipments by the reviewed companies in many of the previous administrative reviews of PC Wire Strand conducted by the Department.² Moreover, since the conclusion of the first sunset review, import volumes of PC Wire Strand from Japan continued to decline. The level of imports for the years after the first sunset review continued to decline significantly, and have consistently been below 500 tons from 2001-2003. *See U.S. Bureau of the Census*, IM 146 report. Thus, we agree with the domestic interested parties that the level of imports have not reached pre-order volume but have remained at significant low levels compared to the period before and after the imposition of the finding.

Based on the analysis of the existence of dumping in the original investigation and after the issuance of the finding in subsequent reviews and the volume of imports of the subject merchandise for the period before and after the issuance of the finding, the Department finds that dumping is likely to continue or recur if the antidumping finding on PC Wire Strand from Japan is revoked. Indeed, a deposit rate above a *de minimis* level continues in effect for exports of the subject merchandise, as a result of the unchallenged first sunset review by both the Department and the Commission, and for at least one known Japanese manufacturer/exporter. Therefore, given that dumping has continued over

² *See Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 48 FR 45586 (October 6, 1983); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review and Revocation in Part*; 51 FR 30894 (August 29, 1986); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 52 FR 4373 (February 11, 1987); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 52 FR 37997 (October 13, 1987); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 53 FR 9787 (March 25, 1988); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 53 FR 11162 (April 5, 1988); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 55 FR 28796 (July 13, 1990); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 55 FR 46853 (November 7, 1990); *Steel Wire Strand for Prestressed Concrete from Japan; Final Results of Antidumping Duty Administrative Review*; 56 FR 66840 (December 26, 1991); and *Steel Wire Strand for Prestressed Concrete from Japan; Notice of Final Court Decision and Amended Final Results of Antidumping Duty Administrative Review*; 62 FR 60688 (November 12, 1997).

the life of the finding, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the finding is revoked.

2. Magnitude of the Margin

Interested Parties Comments

The domestic interested parties assert that Treasury conducted the original investigation, and published company-specific margins in its investigation; therefore, resorting to the Department's first administrative review is not necessary in this proceeding. *See Response of Domestic Interested Parties*, February 2, 2004, at 20. Accordingly, the Department should report the margins as established by the Treasury, and as it did in the original sunset review determination. *Id.*

Department's Position:

In the *Sunset Policy Bulletin*, the Department stated that, in a sunset review of an antidumping finding for which no company-specific margin or all others rate is included in the Treasury finding published in the *Federal Register*, the Department normally will provide to the Commission the company-specific margin from the first final results of administrative review published in the *Federal Register* by the Department. *See Sunset Policy Bulletin* at section II.B.1. In addition, if the first final results do not contain a margin for a particular company, the Department normally will provide the Commission, as the margin for that company, the first "new shipper" rate established by the Department for that finding. *Id.* Exception to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See Sunset Policy Bulletin* at section II.B.2 and 3.

On August 28, 1978, Treasury published weighted-average dumping margins for five Japanese manufacturers and exporters of the subject merchandise. The investigation was discontinued for one company, Kawatetsu, because of *de minimis* margins. On August 29, 1986, the Department revoked the finding with respect to imports produced by Sumitomo Electric Industries, Ltd. and exported by Sumitomo Corporation. Although Treasury calculated an “all others” rate, it did not publish this rate in its final determination. However, the Commission, in its final affirmative final results of review, identified the all others rate of 9.5 percent. *See Commission First Sunset Review*, 43 FR 55826. In the Department’s final results of the first sunset review, we reported to the Commission dumping margins from the original investigation as found by Treasury, including the “all others” rate as identified by the Commission. *See Department’s First Sunset Review*, 64 FR at 857. As noted in the *Sunset Policy Bulletin*, in determining the magnitude of the margins of dumping that would likely prevail in the event of revocation, the Department will normally select dumping margins established in the original investigation because these rates are the only calculated rates that best reflect the behavior of exporters without the discipline of the order or finding in place. Only where no company-specific margin was included in the published Treasury finding does the Department resort to a rate from the Department’s first administrative review. We agree with the domestic interested parties regarding the proper margins to the margins to report to the Commission. Given that Treasury published margins from its investigation, it is unnecessary to resort to the margins from the first administrative review conducted by the Department.

Consistent with the *Sunset Policy Bulletin* and the final results of the first sunset review, the Department finds that the margins calculated in the original investigation are probative of the behavior of

Japanese manufacturers/exporters if the finding were revoked as those are the only margins which reflect the behavior of these manufacturers/exporters absent the discipline of the finding. Therefore, we will report to the Commission, the company-specific margins published in the original Treasury investigation, and the “all others” rate as identified by the Commission in its determination.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping finding would likely lead to continuation or recurrence of dumping at the margins listed below.

Japan Manufacturers/Producers/Exporters	Weighted-average Margin (percent)
Shinko Wire Co., Ltd.	13.3
Suzuki Metal Industry Co., Ltd.	6.9
Tokyo Rope Manufacturing Co., Ltd.	4.5
Sumitomo	Revoked
Kawasaki Steel Techno-Wire	Revoked
All Others	9.76

Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of review in the *Federal Register*.

Agree _____

Disagree _____

Joseph A. Spetrini
Acting Assistant Secretary
for Import Administration

Date